



**THE ATTORNEY GENERAL
OF TEXAS**

Gerald C. Mann
~~NOTED FOR RECORD~~
ATTORNEY GENERAL

AUSTIN 11, TEXAS

Hon. Robert F. Cherry
County Attorney
Bosque County
Meridian, Texas

Dear Sir:

Opinion No. 0-1560

Re: Whether the bond service contract between
The Steck Company and Clifton Independent
School District constitutes a violation
of Article 430a of the Penal Code of Texas.

We have your letter of October 6, 1939 in which you request the opinion of this department with reference to the question whether or not the bond service contract which you enclosed in your letter, between The Steck Company and Clifton Independent School District, constitutes a violation of Article 430a of the Penal Code of Texas, relating to the unlawful practice of law.

You refer particularly to paragraph I (a) of the contract which reads as follows:

"I - Legal Service

"(a) To prepare the legal proceedings necessary to be executed in voting and/or authorizing the issuance of the proposed securities. Where an election is required, this will include the preparation of the pre-election proceedings WITHOUT EXTRA CHARGE. If the company prepares such pre-election proceedings and the election fails to carry, no charge is to be made by the company for the proceedings so prepared. It is agreed, however, that if other elections on a similar proposition are called within one year from the date of the previous election, this contract will apply to the new elections, with any necessary alterations in price to correspond with the new proposition. The company will provide the customer with not more

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than three transcripts of the complete legal proceedings for execution--one for the customer, one for the Attorney General, and one for the market attorney if required.

PRICE \$100.00."

In our opinion, the portion of the contract which has been quoted above constitutes an agreement to render legal services by a corporation, and therefore is an agreement in violation of the provisions of Article 430a of the Penal Code. The performance of the services provided for, in compliance with the contract, would constitute, in our opinion, the unlawful practice of law by The Steck Company.

Section 1 of Article 430a of the Penal Code reads as follows:

"It shall be unlawful for any corporation or any person, firm, or association of persons, except natural persons who are members of the bar regularly admitted and licensed, to practice law."

Section 2 of Article 430a of the Penal Code defines the practice of law, and includes the following:

"(a) For a consideration, reward or pecuniary benefit, present or anticipated, direct, or indirect, advises or counsels another as to secular law, or draws a paper, document or instrument affecting or relating to secular rights;..."

Section 7 of Article 430a of the Penal Code relates to agreements in violation of the unlawful practice Act. This Section reads in part as follows:

"Any agreement by any person, corporation, or association in violation of this Act shall be illegal and such person, corporation, or association shall not be able to recover for any services rendered in violation of this Act, either on the contract or a quasi-contractual obligation. . . ."

We assume from your letter and from the terms of the contract that The Steck Company is a corporation, and therefore cannot be lawfully authorized to practice law.

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We think that the contract which you enclose with your request, and particularly the portion thereof which we have quoted above, constitutes an agreement to practice law in violation of Article 430a of the Penal Code. The quoted paragraph is headed "Legal Service." The agreement expressly provides that the Steck Company agrees "to prepare the legal proceedings necessary to be executed in voting and/or authorizing the issuance of the proposed securities." A separate consideration in the sum of \$100.00 is provided for the performance of these services.

Under our opinion No. 0-831, by Assistant Attorney General Robert E. Kepke, addressed to Hon. J. P. Bryan, County Attorney, Brazoria County, the agreement by the corporation to perform legal services would be illegal, even though it was contemplated that licensed attorneys should perform the legal services under employment by the corporation. A large number of cases are cited in said opinion sustaining this proposition.

In accordance with the request contained in your letter, we are returning herewith the copy of the bond service contract which you sent us.

Very truly yours,

ATTORNEY GENERAL OF TEXAS

By

Ed Roy Simmons
Assistant

ERS:pbp:ba

ENCLOSURE